

Message Text

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43

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SUBJ: GEN LEIGH TALKS OF LEGITIMACY, MILITARY JUSTICE AND
PRESENT TASKS

1. SUMMARY. AIR FORCE CINC GEN GUSTAVO LEIGH, WIDELY
REGARDED AS MOST OUTSPOKEN AND ARTICULATE MEMBER OF JUNTA,
GAVE MAJOR SPEECH AT OPENING OF CATHOLIC UNIVERSITY LAW SCHOOL
ACADEMIC YEAR APRIL 29. LEIGH DEFENDED LEGITIMACY OF JUNTA
AND FAIRNESS OF MILITARY TRIALS NOW IN PROCESS, ADMITTED SOME
ABUSES OF PRISONERS HAD OCCURRED BUT SAID THEY HAVE BEEN
CORRECTED, AND TOOK SEVERAL CLEAR SLAPS AT CHURCH AND AT
CHRISTIAN DEMOCRATIC POLITICIANS WHO HE CLAIMED ARE PARTIALLY
TO BLAME FOR SITUATION IN WHICH ARMED FORCES HAD TO ACT.
END SUMMARY.

2. LEGITIMACY OF JUNTA - LEIGH ARGUED THAT PRESENT GOVT "WAS
BORN WITH FULL LEGITIMACY OF ORIGIN SINCE WHAT HAPPENED SEPT
11 CONSTITUTED THE LEGITIMATE EXERCISE OF THE RIGHT OF REBELLION
AGAINST AN ILLEGITIMATE, IMMORAL, AND UNSUCCESSFUL GOVT WHICH
HAD GRAVELY AND DELIBERATELY STRAYED FROM THE COMMON WELFARE
AND WAS SUBJUGATING THE COUNTRY TO HUNGER AND FRATRICIDAL
CONFRONTATION." OVERTHROW OF SUCH A GOVT IS UNIVERSALLY
RECOGNIZED AS LEGITIMATE, LEIGH CLAIMED. "OUR (ARMED FORCES)
INTERVENTION WAS A SACRED AND UNAVOIDABLE DUTY." MOREOVER,
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"OUR LEGITIMACY STEMS NOT ONLY FROM OUR ORIGIN BUT ALSO FROM

THE WAY IN WHICH WE HAVE EXERCISED POWER....WE HAVE MAINTAINED WITHOUT ALTERATION OUR STATE OF LAW IN ALL BASIC ASPECTS, WITHIN THE BOUNDS OF THE EMERGENCY (SECURITY) MEASURES WHICH THIS STATE OF LAW CONTAINS."

3. MILITARY JUSTICE AND TRIALS. - STRESSING THAT A STATE OF INTERNAL WAR WAS "NO JURIDICAL FICTION BUT A TRAGIC REALITY," LEIGH TOOK NOTE OF CRITICISM OF MILITARY TRIBUNALS OPERATING UNDER WAR-TIME RULES. HE SHARPLY DENIED THAT WAR-TIME RULES MEAN THAT "ACTS COMMITTED PRIOR TO SEPT 11 WOULD BE PUNISHED MORE SEVERELY" THAN UNDER PEACE-TIME RULES SINCE "THE PENALTIES PROVIDED IN THE CODE OF MILITARY JUSTICE FOR A SPECIFIED CRIME GENERALLY DO NOT VARY IRRESPECTIVE OF WHETHER THE CRIME WAS COMMITTED IN TIME OF PEACE OR IN TIME OF WAR." CONSEQUENTLY, HE CONTINUED, PRESENT TRIALS BEFORE MILITARY TRIBUNALS ARE WITHIN CHILEAN LEGAL TRADITION THAT A PERSON MAY BE PUNISHED ONLY FOR AN ACT WHICH WAS PUNISHABLE BY LAW PRIOR TO ITS COMMISSION, AND BY THE PENALTY APPLICABLE AT THE TIME ACT WAS COMMITTED. LEIGH STATED THAT THERE IS NO INCONSISTENCY WITH ABOVE IN APPLYING CONCEPT OF "THE ENEMY" TO "THOSE SUBVERSIVE GROUPS ORGANIZED BY MARXISM, (STARTING) FROM THE VERY INSTANT IN WHICH THEY BECAME MILITARILY ORGANIZED TO SPREAD VIOLENCE, CORRUPTION, AND GENOCIDE AND TO ATTEMPT TO SEIZE TOTAL POWER INCLUDING THE DESTRUCTION OF OUR MILITARY INSTITUTIONS."

4. COMMENT - LEIGH IS BASICALLY CORRECT REGARDING SIMILARITY OF PENALTIES IN CHILEAN MILITARY CODE OF JUSTICE, BUT THIS BEGS SEVERAL BASIC ISSUES. FOR EXAMPLE, CIVIL APPEAL CAN BE TAKEN FROM MILITARY TRIBUNAL IN TIME OF PEACE WHEREAS IT CANNOT (AT PRESENT) IN TIME OF WAR. ALSO, MANY DEFENDANTS ARE BEING PROSECUTED UNDER PROVISIONS OF CODE WHICH PRESUME A WARTIME SETTING (E.G. PASSING MILITARY SECRETS TO "THE ENEMY"), WHEREAS SAME ACT COMMITTED IN PEACETIME WOULD BE PUNISHABLE UNDER DIFFERENT PROVISIONS OF CODE (E.G. UNAUTHORIZED USE OF CLASSIFIED DOCUMENTS). END COMMENT

5. ABUSE OF PRISONERS - LEIGH ADMITTED THAT "UNFORTUNATELY, AND AGAINST OUR WISHES, THE POWERS INHERENT IN THE STATE OF EMERGENCY IN WHICH WE ARE LIVING HAVE GIVEN RISE TO THE COM-

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MISSION OF SOME ABUSES." THESE ARE "ISOLATED CASES" AND HAVE BEEN GREATLY EXAGGERATED, HE SAID; "WHEN SUCH EXCEPTIONAL ABUSES HAVE COME TO OUR ATTENTION --- WE HAVE BEGUN THE APPROPRIATE JUDICIAL PROCEEDINGS, AND THERE ARE MEMBERS OF OUR OWN ARMED SERVICES WHO HAVE BEEN PENALIZED BY MILITARY TRIBUNALS." COMMENT: THIS IS FIRST EMBASSY HAS HEARD OF SUCH CASES. END COMMENT.

6. ROOT CAUSES OF PRESENT SITUATION - "THERE ARE THOSE," SAID LEIGH, "WHO FROM THEIR LOFTY PERCHES, MAINLY OVERSEAS BUT ALSO IN CHILE, EXPRESS THEIR ANGUISH AND THEIR PREOCCUPATION ABOUT THE RIGORS OF THE SITUATION IN WHICH WE LIVE." (COMMENT: LEIGH PROBABLY HAD RECENT BISHOPS STATEMENT ON HUMAN RIGHTS IN MIND.) FOR SUCH PERSONS, LEIGH TRACED THREE UNDERLYING CAUSES OF SITUATION: (1) THE RESPONSIBILITY OF CHILEAN INTELLECTUALS FOR PROPAGATING THE "FOREIGN DOCTRINE OF MARXISM-LENINISM." (2) THE ROLE OF "GROUPS OF CHRISTIAN INSPIRATION (COMMENT: I.E. THE PDC) AND EVEN ECCLESIASTICAL GROUPS -- IN SEEKING DOCTRINAL AND PRACTICAL AGREEMENTS WITH MARXISM, IN FOMENTING A STERILE CLASS STRUGGLE, AND IN SEEKING THE DESTRUCTION OF AUTHORITY AND DISCIPLINE OF ALL KINDS." "GENERALLY ALL THIS HAPPENED WITH THE TOLERANCE, OR WITH THE WEAK AND MUTED OBJECTIONS, OF THOSE WHOSE MISSION IT WAS PROMPTLY TO STOP SUCH CONFUSION." (3) "THE RESPONSIBILITY OF THOSE POLITICIANS WHO, THROUGH THEIR DEMAGOGUERY, THEIR PARTISAN POLITICAL SPIRIT, OR THEIR LACK OF VISION, PREFERRED THE EASY ROAD OF CAJOLERY WHICH PRODUCED VOTES TO TAKING THE MEASURES WHICH WOULD HAVE ALLOWED CHILE TO ACHIEVE AN ACCELERATED ECONOMIC DEVELOPMENT AND EFFECTIVE SOCIAL JUSTICE." WHILE THIS TREND BECAME ACCENTUATED UNDER THE UP, "THE LIBERTINISM HAD ALREADY BEGUN EARLIER; OTHERWISE, PERHAPS MARXISM WOULD NEVER HAVE COME TO POWER IN OUR COUNTRY." (COMMENT: THIS IS A DIRECT ALLUSION TO THE FREI ADMINISTRATION AND THE PDC.) FOR ALL OF THESE REASONS, LEIGH CONCLUDED, "WE ARE ABSOLUTELY DETERMINED TO RIP OUT THIS (MALIGNANT TUMOR) BY THE ROOTS." FOR THOSE WHO ASK A QUICK RETURN TO AN ELECTORAL SYSTEM, "WE WILL NOT TURN OVER COMMAND UNTIL OUR PROFOUND CREATIVE AND RECTIFYING TASK IS CONCLUDED." THE PARTY SYSTEM IN EFFECT BEFORE SEPT 11 IS "AN OUTMODED SYSTEM," AND THE TASK OF THE JUNTA IS TO DESIGN NEW AND MODERN MECHANISMS OF GOVERNMENT IN ACCORD WITH THE TIMES.

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7. COMMENT. INTENSE PUBLICITY GIVEN TO LEIGH SPEECH INDICATIVE OF IMPORTANCE GOC ATTRIBUTES TO IT AS A STATEMENT OF POLICY. LEIGH'S TONE THROUGHOUT WAS UNAPOLOGETIC DEFENSE OF JUNTA ACTIONS AND POLICIES; EVEN ACKNOWLEDGEMENT THAT SOME ABUSE OF PRISONERS HAD OCCURRED WAS PHRASED IN PAST TENSE. PICTURE WHICH EMERGES IS THAT OF A GOVT LEADER WHO IS PASSIONATELY CONVINCED GOC ACTIONS ARE ABSOLUTELY NECESSARY AND MORALLY CORRECT, WHO IS OPPOSED TO POLITICKING OF KIND WHICH PREVAILED BEFORE SEPT 11, AND WHO BELIEVES CHRISTIAN DEMOCRATS -- AND CHURCH -- SHARE RESPONSIBILITY FOR EVENTS WHICH LED TO COUP. DECONTROLLED ONE YEAR. POPPER

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